

### REMARKS

Claim 1 has been amended. Claims 1 and 4-19 are pending in the application. In view of the foregoing amendment, and the remarks that follow, Applicants respectfully request reconsideration. The undersigned is not currently an attorney of record, but is acting in a representative capacity under 37 C.F.R. §1.34(a).

#### Second Paragraph of 35 U.S.C. §112

The Office Action rejects Claim 1 as indefinite under the second paragraph of 35 U.S.C. §112, indicating that there is no antecedent basis for the first reference to "the pollution source". Claim 1 has therefore been amended to change this from "the pollution source" to "a pollution source". This modification merely improves the form of Claim 1, and does not alter the scope of Claim 1. It is respectfully submitted that Claim 1 is now in compliance with §112, and notice to that effect is respectfully requested.

#### Independent Claim 1

Independent Claim 1 stands rejected under 35 U.S.C. §102 as anticipated by Nakao U.S. Patent Application Publication No. 2003/0050005. This ground of rejection is respectfully traversed. MPEP §2131 specifies that, in order for a reference to anticipate a claim under §102, the reference must teach each and every element recited in the claim, and the elements must be arranged as recited in the claim.

Figure 1 of Nakao discloses a housing in the form of a building that has a clean room R1 with a floor defined by a grating 1, and with a ceiling defined by a filter 4. A conduit Q extends from a space R2 located below the grating 1 to a space 3 located above the ceiling/filter 4. Permanently installed within the clean room R1 is an apparatus A for processing articles, and an apparatus B for storing such articles. The articles within the apparatus A/B can produce contaminants. The apparatus B includes support members 6 and 7 that can support the articles.

Applicants' Claim 1 includes several limitations that are not met by what is disclosed in Nakao. For example, Claim 1 recites "a filter vertically spaced below the support member". In Nakao, the filter 4 is above the support members 6 and 7. (The Examiner asserts in the Office Action that Nakao's floor grating 1 is a filter, but there is absolutely nothing in Nakao that teaches the grating 1 has any capability to filter any contaminants emitted by the articles. In fact, the clear teaching of Nakao is that the contaminants pass through the grating 1 and are later caught by the filter 4). Claim 1 also calls for "the filter and a lower portion of the housing defining a first converging room". In Nakao, the filter 4 is in an upper portion of the housing that defines the clean room R1, and the filter 4 does not in any way cooperate with a lower portion of the housing, much less in a manner that defines a converging room. Claim 1 further recites "a distributor vertically spaced above the support member, wherein the distributor comprises a plate having a plurality of apertures". In contrast, Nakao does not have anything above support members 6 and 7 that constitutes "a plate with a plurality of apertures".

Nakao thus does not anticipate Claim 1 under §102, because Nakao does not disclose each and every element recited in Claim 1, arranged as recited in the claim. Claim 1 is therefore believed to be allowable, and notice to that effect is respectfully requested.

#### Independent Claim 15

Independent Claim 15 stands rejected under 35 U.S.C. §102 as anticipated by Nakao. This ground of rejection is respectfully traversed. Claim 15 recites:

a housing separable from the wafer processing system . . . ;  
a distributor positioned inside the housing above the  
pollution source, the distributor comprising a plate having a  
plurality of apertures formed therethrough;

a filter positioned inside the housing below the pollution source and disposed to filter contaminants emitted from the pollution source;

a conduit connected to the housing and configured to direct airflow from adjacent the filter to a top portion of the housing; . . . .

In Nakao, the housing (clean room) is not separable from the article processing apparatus A. Further, there is no plate with a plurality of apertures disposed above the articles that constitute a source of contaminants, there is no filter disposed below the articles, and there is no conduit that directs airflow from adjacent the filter 4 to a top portion of the housing. Nakao thus does not anticipate Claim 15 under §102, because Nakao does not disclose each and every element recited in Claim 15, arranged as recited in the claim. Claim 15 is therefore believed to be allowable, and notice to that effect is respectfully requested.

Independent Claim 18

Independent Claim 18 stands rejected under 35 U.S.C. §102 as anticipated by Nakao. This ground of rejection is respectfully traversed. Claim 18 recites:

providing . . . a distributor . . . comprising a plate having a plurality of apertures formed therethrough, the filter being vertically spaced below the support member and the distributor being vertically spaced above the support member;  
providing a conduit . . . arranged to direct airflow from adjacent the filter to a top portion of the housing; . . . .

In Nakao, there is no plate with a plurality of apertures disposed above the members 6-7 that support articles constituting a source of contaminants, there is no filter disposed below the

members 6-7, and there is no conduit that directs airflow from adjacent the filter 4 to a top portion of the housing. Nakao thus does not anticipate Claim 18 under §102, because Nakao does not disclose each and every element recited in Claim 18, arranged as recited in the claim. Claim 18 is therefore believed to be allowable, and notice to that effect is respectfully requested.

#### Independent Claim 17

Independent Claim 17 stands rejected under 35 U.S.C. §103 on the ground that it would be obvious in view of Nakao. This ground of rejection is respectfully traversed. In this regard, the PTO specifies in MPEP §2142 that:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

Applicants respectfully submit that Nakao fails to establish a *prima facie* case of obviousness under §103 with respect to Claim 17, for several mutually exclusive reasons that are discussed separately below.

#### THE BASIS FOR THE REJECTION IS NOT CLEAR

There are at least two reasons why the basis for the §103 rejection of Claim 17 is not clear. First, lines 17-18 on page 3 of the Office Action state that "Claims 11, 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakao (2003/0050005)". In other words, the Office Action formally states that the rejection of Claim 17 is based solely on Nakao. However, this sentence is followed by the explanation of the §103 rejection at lines 18-24 on page 3, and this explanation includes a reference to Grundy U.S. patent No. 5,944,602. Consequently, it is not clear whether the §103 rejection (1) is based solely on Nakao, or (2) is

based on a combination of Nakao and Grundy. For purposes of this Response, Applicants accept the Examiner's express statement at lines 17-18 on page 3 that the §103 rejection of Claim 17 is based solely on Nakao.

Second, the explanation of the §103 rejection concludes with an assertion that "it has been held that making an article portable or movable without producing any new and unexpected result involves only routine skill in the art". However, the Examiner cites no case law or other authority to support this assertion. This is a further reason why the basis for the §103 rejection of Claim 17 is not clear.

Consequently, the Office Action fails to clearly and properly set forth or explain the basis for rejecting Claim 17 under §103. It is therefore respectfully submitted that the §103 rejection of Claim 17 is not complete and is defective, and it is respectfully requested that it be withdrawn. Moreover, for this independent reason alone, it is respectfully submitted that the Office Action has not properly established a *prima facie* case of obviousness as to Claim 17, and notice to that effect is respectfully requested.

#### NAKAO FAILS TO TEACH ALL CLAIM LIMITATIONS

MPEP §2142 specifies with respect to §103 that:

To establish a *prima facie* case of obviousness . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations. (Emphasis added).

The Office Action states that the §103 rejection of Claim 17 is based solely on Nakao. But Nakao does not disclose all of the limitations recited in Claim 17. In more detail, Claim 17 recites:

providing a movable housing . . . having a filter and a distributor disposed therein, the distributor comprising a plate having a plurality of apertures formed therethrough;  
providing a conduit . . . arranged to direct airflow from adjacent the filter to a top portion of the housing; and  
generating an airflow that follows a flow path defined through the distributor, past the wafers, through the filter, and through the conduit . . . .

The Office Action expressly admits that Nakao does not disclose a movable housing. Further, Nakao does not disclose a conduit that carries air from adjacent Nakao's filter 4 to a top portion of Nakao's housing. Moreover, in Nakao, the flow path for air does not pass sequentially "through the distributor, past the wafers, through the filter, and through the conduit". Instead, Nakao's flow path encounters elements in a different sequence.

Accordingly, Nakao fails to satisfy the requirement of MPEP §2142 that Nakao must "teach or suggest all the claim limitations" (emphasis added). Therefore, for this independent reason alone, it is respectfully submitted that Claim 17 is not obvious under §103 in view of Nakao, and notice to that effect is respectfully requested.

#### THE PROPOSED MODIFICATION OF NAKAO IS NOT OBVIOUS

As noted above, the Office Action admits on page 3 that Nakao does not disclose a movable housing . The Office Action then goes on to assert that:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wheels on the ventilator housing [of Nakao] for portability.

This assertion is respectfully traversed. What Nakao discloses is a building having a room R1 that serves as a clean room. There is no obvious way to extract a room from a building and put the room on wheels. An attempt to put the room R1 on wheels would inherently involve a major redesign of the building and the room, and a major redesign is never an obvious expedient. Accordingly, for this independent reason alone, it is respectfully submitted that Claim 17 is not obvious under §103 in view of Nakao, and notice to that effect is respectfully requested.

#### THE PROPOSED MODIFICATION OF NAKAO IS NOT PROPER

There is yet another reason why the proposed modification of Nakao is not proper under §103. In this regard, MPEP §2142 provides that:

To establish a *prima facie* case of obviousness, . . . there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference . . . . The teaching or suggestion to make the claimed combination . . . must . . . be found in the prior art, and not based on applicant's disclosure.

In regard to motivation, the Examiner asserts in the Office Action that a person skilled in the art would be motivated to make Nakao's clean room movable because "it has been held that making an article portable or movable without producing any new and unexpected result involves only routine skill in the art". The Examiner fails to cite any case law or other authority in support of this theory. In addition, Nakao's clean room is an integral part of a building, rather than an "article". Further, the Examiner does not explain why Applicants' movable apparatus supposedly fails to produce any new and unexpected results (despite the discussion to the contrary in the specification of the present application). Ultimately, the Examiner's statement boils down to the concluding assertion that adding "wheels" to anything "involves only routine skill in the art". In

essence, the Office Action is relying on the level of skill in the art to provide the suggestion to modify Nakao. However, this approach is directly prohibited by the provisions of MPEP §2143.01, which state that:

FACT THAT THE CLAIMED INVENTION IS WITHIN THE  
CAPABILITIES OF ONE OF ORDINARY SKILL IN THE ART  
IS NOT SUFFICIENT BY ITSELF TO ESTABLISH *PRIMA  
FACIE* OBVIOUSNESS

A statement that modifications of the prior art to meet the claimed invention would have been " 'well within the ordinary skill of the art at the time the claimed invention was made' " because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. [Case citations omitted] . . . (The level of skill in the art cannot be relied upon to provide the suggestion to combine references).

As noted above, the explanation of the §103 rejection essentially asserts that the proposed modification of Nakao to meet Claim 17 would have been within the capabilities of a person skilled in the art. However, as emphasized in MPEP §2143.01, this is not permissible, because the level of skill in the art cannot be relied upon to provide the suggestion for modifying a reference. The present §103 rejection of Claim 17 is therefore not complete, because it fails to demonstrate the motivation that is required by the MPEP. In effect, the §103 rejection of Claim 18 is based on hindsight of the present invention, rather than on motivation properly derived from what was known prior to the present invention. In regard to hindsight, examiners frequently attempt to justify the use of hindsight by turning to PTO Form Paragraph 7.37.03,



which states that "any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning". However, even this form paragraph goes on to emphasize that hindsight is permissible only to the extent that it "does not include knowledge gleaned only from the applicant's disclosure" (emphasis added). Here, Nakao cannot possibly render the subject matter of Claim 17 obvious, unless the analysis also includes hindsight of Applicant's disclosure. But MPEP §2142 and Form Paragraph 7.37.03 both make it very clear that hindsight of Applicant's disclosure cannot be used under §103. Accordingly, for this independent reason alone, it is respectfully submitted that Claim 1 is not rendered obvious under §103 by Nakao, and notice to that effect is respectfully requested.

In view of the various different reasons discussed above, it is respectfully submitted that Claim 17 is not rendered obvious under §103 by Nakao. Claim 17 is therefore believed to be allowable, and notice to that effect is respectfully requested.

#### Dependent Claims

Claims 4-14, Claim 16 and Claim 19 respectively depend from Claim 1, Claim 15 and Claim 18, and are also believed to be distinct from the art of record, for example for the same reasons discussed above with respect to Claims 1, 15 and 18, respectively.

#### Conclusion

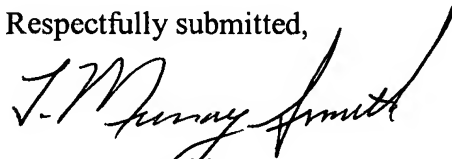
Based on the foregoing, it is respectfully submitted that all of the pending claims are fully allowable, and favorable reconsideration of this application is therefore respectfully requested. If the Examiner believes that examination of the present application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8647.

Appl. No. 10/614,564  
Reply to Office Action of July 24, 2006

Attorney Docket No. 2002-0894 / 24061.13  
Customer No. 42717

Although Applicants believe that no additional fee is due, the Commissioner is hereby authorized to charge any fee required by this paper, or to credit any overpayment, to Deposit Account No. 08-1394 of Haynes and Boone, LLP.

Respectfully submitted,



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Date: November 9, 2006

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R-142436.1